

NATURAL DISASTER HOUSING REFORM ACT OF 2006

—————
JULY 28, 2006.—Ordered to be printed
—————

Mr. OXLEY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 5393]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 5393) to provide for the Department of Housing and Urban Development to coordinate Federal housing assistance efforts in the case of disasters resulting in long-term housing needs, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5393, the “Natural Disaster Housing Reform Act of 2006” has two main functions: to designate the Department of Housing and Urban Development (HUD) as the lead Federal agency in natural disasters (subject to a Stafford Act declaration) where long-

term housing needs exist and to make changes to the Stafford Act to facilitate post-Katrina recovery.

H.R. 5393 would allow, after a Presidential disaster declaration under the Stafford Act, a governor to request that the President find a long-term housing response. Upon making a finding that disaster victims may be displaced from their residences for more than 30 days, the President may designate HUD as the lead agency to provide housing assistance to disaster victims. Housing assistance is broadly defined in order to provide HUD a comprehensive array of options to meet long-term housing needs. This flexibility will offer significant improvements to existing law that sharply limits housing options for disaster victims. While HUD is the lead agency, DHS primacy in the management of natural disaster response is retained.

The legislation also amends the Stafford Act in the following ways:

- Allows a disaster victim to reject an offer for a travel trailer without being denied other forms of housing assistance.

- Requires that a disaster victim be notified before a travel trailer is delivered to or placed on their property.

- Allows a disaster victim to contribute their own funds in order to meet cost-effectiveness criteria for temporary housing other than a travel trailer.

- Authorizes the use of “Katrina Cottages”, a form of modular housing.

- Limits the concentration of trailers on a site to no more than 3 to avoid the creation of FEMA trailer parks.

- Requires Federal, state and local governments to create evacuation plans for disaster victims occupying FEMA trailers in the event of an impending disaster.

- Authorizes DHS/FEMA to pay security deposits, utility fees and make minor repairs to rental units to make them fit for occupation.

- Authorizes the placement of modular and manufactured housing in special flood hazard areas.

BACKGROUND AND NEED FOR LEGISLATION

Hurricane Katrina and the floods accompanying the storm destroyed or rendered uninhabitable more than 300,000 residences and caused \$96 billion in estimated damage to the Gulf Coast region, making it the most costly natural disaster in the nation’s history. The scale and scope of the event almost immediately overwhelmed natural disaster response mechanisms at all levels of government. The housing crisis was compounded by limitations in current law. One of the immediate crises to quickly escalate in severity related directly to the substantial damage inflicted upon residential properties and surrounding infrastructure. Acting through mechanisms available to the Federal government, displaced residents were housed in emergency shelters, on cruise ships and in hotel rooms. According to FEMA data, these arrangements remained in force for several months at a cost of more than \$4 billion.

As recovery began its slow start, the government, again acting through existing authority, began an aggressive campaign to purchase temporary housing in the form of travel trailers. According

to FEMA data, more than 122,000 mobile home units were purchased for the purpose of housing storm victims with a cost to the government to purchase these units at approximately \$7.58 billion. Follow-on costs required to site and inspect these units resulted in an average per unit cost of \$70,000, culminating in approximately at the very least \$12.58 billion in expenses related to temporary housing.

In response to the multiple levels of failure to respond to the storm and its aftermath, the Administration conducted a review of government performance across all areas of responsibility, including the provision of disaster housing resources. The Administration found that “the Departments of Veterans Affairs (VA), Housing and Urban Development (HUD), and Agriculture (USDA) also offered thousands of housing units nationwide to FEMA for temporary assignment to evacuees. FEMA officials stated that the need to negotiate conditional requirements in some cases prevented them from accepting some Federal agencies’ offers of housing resources. Most of the thousands of housing units made available by other Federal agencies were not offered to evacuees and were never used.”

Moreover, the Administration found that despite offers from the Departments of Veterans Affairs (VA), Housing and Urban Development (HUD) and Agriculture (USDA) as well as the private sector to provide thousands of housing units nationwide, FEMA focused its housing efforts on cruise ships and trailers, which were expensive. HUD, with extensive expertise and perspective on large-scale housing challenges and its nation-wide relationships with State public housing authorities, was not substantially engaged by FEMA in the housing process until late in the effort. FEMA’s temporary and long-term housing efforts also suffered from the failure to pre-identify workable sites and available land and the inability to take advantage of housing units available with other Federal agencies.

Such findings led to an Administration recommendation that HUD be designated as lead Federal agency for the provision of more flexible and cost effective housing assistance in the event of a natural disaster. Further, the Administration acknowledged the need to emphasize locating independent housing as a means of utilizing existing and available housing resources and limiting the use of travel trailers and mobile homes.

HEARINGS

No hearings were held on H.R. 5393 during the 109th Congress.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 14, 2006, and ordered reported H.R. 5393, the Natural Disaster Housing Reform Act of 2006, to the House by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Oxley to report the bill to the House with a favor-

able recommendation was agreed to by a voice vote. During the consideration of this bill, no amendments were considered.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

H.R. 5393, the "Natural Disaster Housing Reform Act of 2006" has two main functions: to designate the Department of Housing and Urban Development (HUD) as the lead Federal agency in natural disasters (subject to a Stafford Act declaration) where long-term housing needs exist and to make changes to the Stafford Act to facilitate post-Katrina recovery. These changes will offer significant improvements to existing law that sharply limits housing options for disaster victims.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

JULY 28, 2006.

Hon. MICHAEL G. OXLEY,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5393, the Natural Disaster Housing Reform Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

H.R. 5393—Natural Disaster Housing Reform Act of 2006

Summary: H.R. 5393 would make the Department of Housing and Urban Development (HUD) the lead agency to distribute housing assistance following a major disaster if the area affected by the disaster will need long-term housing assistance of 30 days or more. Under the bill, HUD would be responsible for providing financial assistance, temporary or permanent housing units, assistance for home repair, and technical assistance following major disasters.

Assuming appropriation of the necessary funds, CBO estimates that implementing H.R. 5393 would cost \$9 million over the 2007–2011 period, mostly for new planning activities and additional staff at these agencies. CBO expects that there would be no significant change in the cost of providing housing assistance following a major disaster under this bill because the federal agency administering housing benefits would change, but the benefits available to households would not be changed. Enacting this bill would not affect direct spending or revenues.

H.R. 5393 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would authorize the Secretary of HUD to preempt state and local regulation of flood plains. CBO estimates that state and local governments would incur little, if any, direct costs as a result of that preemption; therefore, the annual threshold established in UMRA would not be exceeded (\$64 million in 2006, adjusted annually for inflation). The bill contains no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5393 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	2	2	2	2	2
Estimated Outlays	1	2	2	2	2

Basis of estimate: For this estimate, CBO assumes that H.R. 5393 will be enacted near the end of 2006 and that the necessary amounts will be appropriated for each year. Estimates of outlays are based on historical spending patterns for this activity. Assuming appropriation of the necessary funds, CBO estimates that implementing H.R. 5393 would cost \$9 million over the 2007–2011 period.

Under current law, the Federal Emergency Management Agency (FEMA) provides financial and other assistance after a disaster through the Individuals and Households Program (IHP). The IHP provides up to \$27,200 in financial help and housing assistance, including temporary housing and repair and replacement of housing, as well as other assistance following a major disaster. Households can receive IHP assistance for up to 18 months. Under current law, HUD assists FEMA with the disaster housing assistance program.

Under H.R. 5393, FEMA would continue to manage the housing assistance program for a period of up to 29 days. If assistance is needed after 29 days, HUD would become the primary federal

agency administering the housing assistance program in conjunction with FEMA. For this estimate, CBO estimates that HUD would need to increase the number of staff working in its disaster housing program at a cost of less than \$500,000 a year.

In addition, the bill would require FEMA to develop evacuation plans for areas where a disaster has been declared, and FEMA is providing assistance under IHP. FEMA would be required to maintain the plans for 18 months beginning on the date the disaster is declared. Based on information from FEMA, CBO estimates that developing evacuation plans for the 40 to 50 disasters that are typically declared each year would cost from \$1 million to \$2 million a year.

Finally, the bill would direct FEMA, when practical, to site temporary manufactured housing units used to provide emergency housing assistance on individual parcels of property and to limit the number of units that could be placed on each parcel to three. This provision could make citing temporary housing more costly than establishing large concentrations of emerging manufactured housing limits. CBO cannot predict whether FEMA would find it practicable to locate temporary housing in this way, nor whether any additional costs would be significant.

Estimated impact on State, local, and tribal governments: H.R. 5393 contains an intergovernmental mandate as defined in UMRA because it would authorize the Secretary of HUD to preempt state and local regulation of flood plains. Under current federal regulations, mobile homes or readily fabricated dwellings, provided by the federal government in response to a disaster, may not be placed in a flood zone if such placement is inconsistent with the National Flood Insurance Program or more restrictive standards of state and local governments. This bill would preempt those more restrictive standards by allowing the Director of FEMA to locate permanent, semi-permanent, or temporary housing in those flood zones, regardless of federal, state, or local regulations that prohibit such activity. CBO estimates that state and local governments would incur little, if any, direct costs as a result of that preemption; therefore, the annual threshold established in UMRA would not be exceeded (\$64 million in 2006, adjusted annually for inflation).

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Fatimot Ladipo.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section establishes the short title of the bill, the “Natural Disaster Housing Reform Act of 2006.”

Section 2. HUD as lead agency in cases of disasters resulting in long-term housing needs

This section provides that HUD will be designated as lead Federal agency in those instances where a natural disaster results in long-term housing needs. HUD would be required to consult with DHS and FEMA in the execution of these duties and will staff, train and equip its headquarters, regional, field and area offices to execute these duties. The section also broadly defines housing assistance to include financial assistance, provision of transitional, temporary and permanent housing units, as well as assistance for the repair, replacement and construction of housing.

This section also outlines the process for determining if long-term housing needs exists is as follows: Governor assesses damage to housing stock, makes a finding that individuals and families will be displaced from primary residences for a period of more than 30 days and makes a request to the President for long-term housing assistance; the President assesses housing needs in the disaster area (or any subdivisions of a disaster area) and issues a determination with regard to the Governor’s request; and the President will provide any long-term housing assistance exclusively through HUD, however the DHS/FEMA will retain their primacy in coordinating the response to natural disasters.

Section 3. Federal assistance to individual households

This section authorizes the use of modular housing in those instances where it is cost-effective or no more expensive to do so. The section provides that individuals and households must be contacted prior to being provided manufactured housing assistance and if such assistance is rejected, will remain eligible for other forms of disaster housing assistance. Individuals may also contribute from their own funds to make modular housing a cost-effective option for the Federal government.

The section also sets forth the authority for DHS/FEMA to pay security deposits, utility fees and make minor repairs to rental

units to make them fit for occupation. The section authorizes the use of semi-permanent housing as a form of disaster housing assistance to individuals and families, authorizes the placement of modular and manufactured housing in special flood hazard areas, discourages the creation of trailer parks or trailer cities as a form of disaster housing assistance and requires DHS/FEMA, states and communities to create and maintain disaster evacuation plans for individuals and families receiving disaster housing assistance.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 408 OF THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT

SEC. 408. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

(a) * * *

(b) HOUSING ASSISTANCE.—

(1) * * *

(2) *DETERMINATION OF AREAS FOR WHICH DISASTER RESULTS IN LONG-TERM HOUSING NEEDS.*—

(A) *STATE REQUEST.*—*After the occurrence and declaration of a major disaster, the Governor of a State containing any area that is subject to the declaration by the President of such major disaster may request the President to determine, for all or any part of such area in the State, that the disaster will result in long-term housing needs.*

(B) *STANDARD.*—*Upon a request pursuant to subparagraph (A), the President shall determine whether to grant such request. The President shall grant such a request and determine that the major disaster will result in long-term housing needs with respect to an area if the President finds that the disaster will displace individuals or households in the area from their predisaster primary residences, or will render such predisaster primary residences in the area uninhabitable, for a period of 30 days or more.*

[(2)] (3) *DETERMINATION OF APPROPRIATE TYPES OF ASSISTANCE.*—

(A) * * *

* * * * *

(C) *MANUFACTURED MODULAR HOUSING.*—*In making any determination of cost effectiveness under subparagraph (A), the President shall consider whether or not manufactured modular housing can be provided to an individual or household at a cost to the Government that is less than the same cost necessary to provide other readily fabricated dwellings.*

(4) *HUD ADMINISTRATION.*—*In accordance with section 2 of the Natural Disaster Housing Reform Act of 2006, in the case of any area for which any major disaster is determined, pursuant to paragraph (2), to result in long-term housing needs, the*

President shall carry out the functions under this section relating to housing assistance, including this subsection and subsections (c) and (d), acting through the Secretary of Housing and Urban Development.

(5) CONSENT OF OWNER.—

(A) IN GENERAL.—*Notwithstanding paragraph (2), the President shall seek the consent of each individual or household prior to providing such individual or household with manufactured modular housing assistance.*

(B) REJECTION OF MANUFACTURED MODULAR HOUSING ASSISTANCE.—*If an individual or household does not provide consent under subparagraph (A), such individual or household shall remain eligible for any other assistance available under this section.*

(6) OWNER CONTRIBUTION.—*Nothing in this section shall be construed to prevent an individual or household from contributing, in addition to any assistance provided under this section, such sums as are necessary in order to obtain manufactured modular housing that is of greater size or quality than that provided by the President under this section.*

(c) TYPES OF HOUSING ASSISTANCE.—

(1) TEMPORARY HOUSING.—

(A) FINANCIAL ASSISTANCE.—

(i) * * *

(ii) AMOUNT.—*The amount of assistance under clause (i) shall be based on the fair market rent for the accommodation provided plus the amount of any security deposit for the accommodation, the amount of any utility fees associated with the accommodation, and the cost of any transportation, utility hookups, or unit installation not provided directly by the President.*

* * * * *

(2) REPAIRS.—

(A) IN GENERAL.—*The President may provide financial assistance for—*

[(i)] *(i)(I) the repair of owner-occupied private residences, utilities, and residential infrastructure (such as a private access route) damaged by a major disaster to a safe and sanitary living or functioning condition; and*

[(ii)] *(II) eligible hazard mitigation measures that reduce the likelihood of future damage to such residences, utilities, or infrastructure.*

(ii) the repair, to a safe and sanitary living or functioning condition, of existing rental units that, upon such repair, will be used as alternate housing accommodations for individuals or households described in paragraph (1).

(B) RELATIONSHIP TO OTHER ASSISTANCE.—*A recipient of assistance provided under [this paragraph] subparagraph (A)(i) shall not be required to show that the assistance can not be met through other means, except insurance proceeds.*

(C) MAXIMUM AMOUNT OF ASSISTANCE.—*The amount of assistance provided to a household under [this paragraph]*

subparagraph (A)(i) shall not exceed \$5,000, as adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

* * * * *

(4) PERMANENT OR SEMI-PERMANENT HOUSING CONSTRUCTION.—The President may provide financial assistance or direct assistance to individuals or households to construct permanent or semi-permanent housing [in insular areas] in—

(A) *insular areas* outside the continental United States and in other remote locations in cases in which—

[(A)] (i) no alternative housing resources are available; and

[(B)] (ii) the types of temporary housing assistance described in paragraph (1) are unavailable, infeasible, or not cost-effective[.]; and

(B) any area in which the President declared a major disaster or emergency in connection with Hurricane Katrina of 2005 during the period beginning on August 28, 2005, and ending on December 31, 2007.

(d) TERMS AND CONDITIONS RELATING TO HOUSING ASSISTANCE.—

(1) SITES.—

(A) * * *

* * * * *

(C) SITES LOCATED IN A FLOODPLAIN.—*Notwithstanding any other provision of law, including section 9 of title 44, Code of Federal Regulations (or any corresponding similar regulation or ruling), any permanent, semi-permanent, or temporary housing provided under this section, including any readily fabricated dwelling, manufactured housing, or manufactured modular housing, may be located in any area identified by the Director as an area having special flood hazards under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a).*

(D) INDIVIDUAL SITES FOR MANUFACTURED MODULAR HOUSING.—*Manufactured modular housing made available under this section—*

(i) shall, whenever practicable, be located on a site that is a discrete and separate parcel of land; and

(ii) may not be located on a site that—

(I) is managed by the Director; and

(II) contains 3 or more other manufactured modular housing units.

* * * * *

(j) EVACUATION PLANS.—*The Director, in consultation with the Governor of each State and the heads of such units of local government as the Director may determine, shall develop and maintain detailed and comprehensive mass evacuation plans for individuals or households receiving assistance under this section for the 18-month period beginning on the date of the declaration of the disaster for which such assistance is provided.*